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FISCAL IMPACT REPORT

SPONSOR Smith/Neville **ORIGINAL DATE** 9/30/2016
LAST UPDATED 10/6/2016 **HB** _____

SHORT TITLE Transfer & Distribute Tobacco Settlement Fund **SB** 2/aHAFC/aHFLR

ANALYST Armstrong

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
(\$131,000.0)	(\$88,400.0)		Nonrecurring	Tobacco Settlement Permanent Fund
	(\$64,869.6)		Nonrecurring	Other State Funds
	(\$15,500.0)		Nonrecurring	N.M. Finance Authority Public Project Revolving Fund
	(\$16,100.0)		Nonrecurring	Prior MOE Appropriations to PED
\$131,000.0	\$184,869.6		Nonrecurring	General Fund Appropriation Account

(Parenthesis () Indicate Revenue Decreases)

Duplicates HB8/aHAFC

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of House Floor Amendment

The House Floor amendment to Senate Bill 2, as amended by the House Appropriations and Finance Committee, increased transfers to the general fund by \$17.9 million. This includes an increase of \$15.4 million from various other state funds and \$2.5 million increase in transfers from the New Mexico Finance Authority (NMFA).

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to Senate Bill 2 increased the transfer from legislative cash balances from \$1 million to \$2 million.

Synopsis of Original Bill

Senate Bill 2 restores general fund operating reserve balances and supports spending for FY16 and FY17 through transferring cash balances from other state funds, including the tobacco settlement permanent fund, to the general fund.

FISCAL IMPLICATIONS

The bill transfers the following amounts to the general fund appropriations account:

- \$64.9 million from various accounts in the treasury (see below)
- \$219.4 million from the tobacco settlement permanent fund, including an estimated \$131 million to restore the FY16 appropriations account and transferring the remaining amount to the FY17 appropriation account to cover appropriations
- \$16.1 million from unspent prior appropriations for possible maintenance of effort requirements by the Public Education Department
- \$15.5 million in residual balances from the public project revolving fund after the New Mexico Finance Authority satisfies all bond payment requirements

**Table 1. Transfers from Other State Funds
(in thousands of dollars)**

Agency Name	Fund Name	Original SB2	As Amended
Legislature	General - Legislative Cash Balances	\$1,000.0	\$2,000.0
Administrative Office of the Courts	Municipal Court Automation Fund	\$100.0	\$100.0
Administrative Office of the Courts	Special Water Rights Adjudication Fund	\$100.0	\$100.0
Department of Finance and Administration	Local DWI Grant Fund	\$3,645.0	\$3,645.0
Department of Finance and Administration	911 Enhancement	\$6,000.0	\$6,000.0
Department of Finance and Administration	Capital Projects Fund	\$632.6	\$632.6
Public School Insurance Authority	Risk Fund	\$5,000.0	\$6,000.0
General Services Department	Various Funds	\$9,100.0	\$14,100.0
General Services Department	Public Building Repair Fund		\$1,000.0

Agency Name	Fund Name	Original SB2	As Amended
General Services Department	State Transportation Pool		\$500.0
Regulation and Licensing Department	Various Funds	\$6,082.7	\$6,082.5
Regulation and Licensing Department	Board of Dental Care Fund	\$598.8	\$598.8
Regulation and Licensing Department	Board of Pharmacy Fund	\$1,465.9	\$1,465.9
Tourism Department	Litter Control and Beautification Fund		\$300.0
Medical Board	New Mexico Medical Board Fund	\$500.0	\$500.0
Board of Licensure for Professional Engineers and Professional Surveyors	Prof. Engineer's and Surveyor's Fund	\$2,944.8	\$2,944.8
Department of Cultural Affairs	Art in Public Places Balances Pre-2005		\$2,500.0
Livestock Board	Livestock Inspection Fund	\$500.0	\$500.0
Workers Compensation Administration	Workers Compensation Administration Fund		\$1,000.0
Department of Game and Fish	Trail Safety Fund		\$300.0
Department of Health	Trauma System Fund	\$800.0	\$800.0
Environment Department	Various Funds	\$4,000.0	\$4,000.0
Environment Department	Corrective Action Fund		\$800.0
Department of Public Safety	Concealed Carry Permit Fund		\$1,000.0
Higher Education Department	College Affordability Funds	\$3,000.0	\$5,000.0
Higher Education Department	Post-Secondary Education Institution Fund	\$3,000.0	\$3,000.0
Total		\$48,469.8	\$64,869.6

Table 2. Transfers From Board and Commission Funds

Board	Amount (in thousands)
Accountancy Board	\$648.1
Acupuncture Board	\$249.5
Athletic Commission Board	\$172.7
Athletic Trainers Board	\$32.5
Barber & Cosmetology Board	\$935.7
Body Art Safe Practices Act	\$249.5
Chiropractors Board	\$181.5
Counselors & Therapy Board	\$563.2
Landscape Architect Board	\$18.9
Massage Therapy Board	\$327.1
Nursing Home Admin. Board	\$56.3
Nutrition & Dietetics Board	\$60.5
Occupational Therapy Board	\$161.5
Optometry Board	\$35.8
Osteopath Examiner Board	\$57.2
Physical Therapy Board	\$329.7
Psychology Board	\$157.8

Board	Amount (in thousands)
Real Estate Appraisers	\$417.6
Real Estate Commission Board	\$621.4
Respiratory Care Board	\$114.5
Social Worker's Board	\$304.0
Speech/Lang/Hearing Board	\$283.4
Thanatopractice Board	\$104.1
Total	\$6,082.5

SIGNIFICANT ISSUES

The August consensus revenue estimate found FY16 revenues were \$223 million below estimates in February and reduced FY17 revenue projections by \$431 million. This reduced revenue requires transfers to cover the FY16 shortfall, to meet FY17 expenditures including adjustments proposed during the special session, and to provide some general fund reserve. Senate Bill 2 addresses solvency issues to ensure the general fund has sufficient money to cover spending in FY16 and FY17.

State Auditor’s Office (SAO) analysis of House Bill 311 (2016 regular session), which also transferred fund balances to the general fund, included a statement of best practices for managing fund balances. According to the analysis, standard financial operations typically require certain amounts of dollars to be held as fund balances to be used to offset funding gaps between fund expenditure and fund reimbursement, similar to the way a business would utilize “working capital.” Funds are also commonly used to store dollars for purposes of future spending, contingency spending, and future debt repayment similar to how a business would use various types of savings and investment accounts. However, just as with a business, agencies have a responsibility to control and minimize fund balances to put those dollars toward their intended purpose.

While part of the general fund reserves, the tobacco settlement permanent fund requires additional legislative action to access. Section 1 of this bill amends the statute governing the fund to allow the transfers included in Section 2.

Senate Bill 2 de-earmarks three prior appropriations, totaling \$16.1 million, to the Public Education Department (PED) which provided special education maintenance of effort (MOE) funding if other funding mechanisms were not accepted by the federal Department of Education (USDE). The state and USDE are working on a settlement to this issue.

In addition to fund sweeps, this bill transfers governmental gross receipts tax revenue that is not needed to satisfy New Mexico Finance Authority (NMFA) bond payments. NMFA

While the New Mexico Public School Insurance Authority (NMPSIA) board does not support the transfer of \$6 million from fund balances, NMPSIA staff reported to the board that this transfer will not impact the ability to pay projected claims in FY17.

ADMINISTRATIVE IMPLICATIONS

Department of Finance and Administration and LFC staff worked to identify fund balances that are not budgeted and thus will not have an impact on agency operations.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The general fund will have a negative balance and will not have enough money to cover any necessary transfers should revenues not materialize in FY17. There would be no funding in the appropriation account or operating reserve to cover legislative, special, supplemental, or information technology nonrecurring expenses and state would not have sufficient revenue to cover appropriations and would not be a balanced budget as required by the New Mexico Constitution. Finally, the general fund operating reserve will continue to have a deficit for FY16.

JA/jle